

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

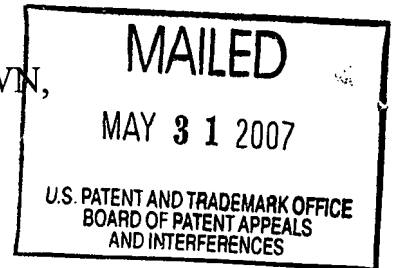
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*Ex parte* BRAIN HAAB, PATRICK BROWN,  
and TIDHAR SHALON

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Application No. 09/550,303

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (hereinafter the "Board") on May 9, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

On March 30, 2006, the Examiner entered a final rejection of claims 10, 13-16, 18, 31 and 33-37. On July 27, 2006, Applicants filed a Notice of Appeal.

**Grounds of Rejection**

On October 26, 2007, Applicants filed an Appeal Brief. In response, the Examiner mailed an Examiner's Answer on January 22, 2007. On page 2 of the Answer, paragraph (6) under the heading of "Grounds of Rejection to be Reviewed on Appeal," the Examiner states that "[t]he following grounds of rejection are not presented for review on appeal because they have been

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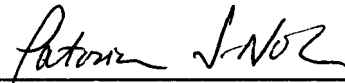
withdrawn by the Examiner. The rejection of Claims **33-37** under 35 U.S.C. 102 over Winkler are withdrawn” (emphasis added). However, on page 3, section (9) under the heading of “Grounds of Rejection,” the Examiner rejects claims 31 and **33-35** under § 102(e) as being anticipated by Winkler. It is not clear from the record as to which claims the Examiner is rejecting under § 102(e) as being anticipated by Winkler.

In addition, on page 4 of the Answer the Examiner rejects claims 10, 13-15, 18, 31, 33-35, and 37 under § 102(e) as being anticipated by Barrett. It is not clear as to the status of claim 36, which was included in this rejection according to the Final Office Action mailed on March 30, 2006.

Accordingly, it is

ORDERED that the application is returned to the Examiner to clarify the rejection of claims under 35 U.S.C. § 102(e) as anticipated by Winkler, the rejection of claims under 35 U.S.C. § 102(e) as anticipated by Barrett, written notification to Appellants of the proper rejections, and for such further action as may be appropriate.

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By:   
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571) 272-9797

PJN:clj

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Bozicevic, Field & Francis LLP  
1900 University Avenue  
Suite 200  
East Palo Alto, CA 94303